IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SECOND APPEAL No 11 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

THE MEMBERS OF VOLUNTARY LIQUIDATED THE DHOLKA GANIPUR

Versus

GOVERNMENT OF GUJARAT

Appearance:
1. Second Appeal No. 11 of 2003
MRS NISHA M PARIKH for Appellant No.
MR MAHENDRA K PATEL for Appellant No.
MR HM PRACHHCHAK AGP for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE A.L.DAVE

Date of decision: 01/11/2004

ORAL JUDGEMENT

Heard learned advocate Mr.M.K.Patel for the appellant and learned AGP Mr.H.M.Prachhchak for respondents.

2. The appellants having lost the battle before both the Courts below, have approached this Court with the present second appeal to challenge the order of the Revenue Authorities founded on a fact that the appellants have committed breach of conditions of grant of land. The breach was in the form of non payment of rent / price and non use of the land in question for the purposes for which it was allotted.

3. This finding of the Collector was challenged before the Secretary in the Revenue Department of the Government of Gujarat. The appeal was not accepted. As a consequence, Civil Court was approached. The trial court also did not accept the case of the appellants, so also, the lower appellate court.

4. It is sought to be canvassed by the learned advocate Mr.Patel that the findings of the courts below that there was non payment of rent / price and non use of the property for the purposes for which it was allotted, are erroneous. The finding of the Collector was not correct on facts. In the opinion of this Court, it is not open for the appellants to canvass these points, nor it is permissible for this Court to examine in a Second Appeal such factual aspects which have found favour with four authorities, viz. first being Collector, the second being the Secretary, the third being Civil Court and the fourth being the lower appellate court. For accepting this contention, this Court will have to go into the question, whether Collector's observations on fact was correct or not ? In the opinion of this Court, no substantial question of law arises for determination. The appeal must fail and same is dismissed.

The Civil Application No.1138 of 2003 also stands disposed of accordingly. No costs.

Date : 1.11.2004 [A.L.Dave, J.]

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